

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 BRIAN G. WALSH, State Bar No. 207621  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2535  
Facsimile: (213) 897-2804  
6

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-231**

12 MARINA PICHARDO MACIAS,

**A C C U S A T I O N**

13 aka MARIAM MARINA PICHARDO,  
14 aka MIRIAM MARINA MACIAS,  
aka MARINA MIRIAM MACIAS,

15 15358 San Bruno Drive  
La Mirada, CA 90638

16 Registered Nurse License No. 523480

17 Respondent.  
18

19  
20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely  
22 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
23 Department of Consumer Affairs.

24 2. On or about July 11, 1996, the Board of Registered Nursing (Board) issued  
25 Registered Nurse License Number 523480 to Marina Pichardo Macias, aka Mariam Marina  
26 Pichardo, aka Miriam Marina Macias, aka Marina Miriam Pichardo ("Respondent").  
27 Respondent's registered nurse license was in full force and effect at all times relevant to the  
28 charges brought herein and will expire on June 30, 2010, unless renewed.



1           “(b) Use any controlled substance as defined in Division 10 (commencing with  
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as  
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
4 injurious to himself or herself, any other person, or the public or to the extent that such use  
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her  
6 license.”

7           “(c) Be convicted of a criminal offense involving the prescription,  
8 consumption, or self-administration of any of the substances described in subdivisions (a) and (b)  
9 of this section, or the possession of, or falsification of a record pertaining to, the substances  
10 described in subdivision (a) of this section, in which event the record of the conviction is  
11 conclusive evidence thereof . . .”

12           8. Section 2765 states:

13           “A plea or verdict of guilty or a conviction following a plea of nolo  
14 contendere made to a charge substantially related to the qualifications, functions and duties of a  
15 registered nurse is deemed to be a conviction within the meaning of this article. The board may  
16 order the license or certificate suspended or revoked, or may decline to issue a license or  
17 certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed  
18 on appeal or when an order granting probation is made suspending the imposition of sentence,  
19 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code  
20 allowing such person to withdraw his or her plea of guilty and to enter a plea of  
21 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
22 information or indictment.”

### 23                           REGULATORY PROVISIONS

24           9. California Code of Regulations, title 16, section 1442 states:

25           “As used in Section 2761, ‘gross negligence’ includes an extreme departure from  
26 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
27 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
28 nursing care as required or failure to provide care or to exercise ordinary precaution in a single

1 situation which the nurse knew, or should have known, could have jeopardized the client's health  
2 or life.”

3 10. California Code of Regulations, title 16, section 1444, states, in pertinent  
4 part:

5 “A conviction or act shall be considered to be substantially related to the  
6 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
7 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
8 public health, safety, or welfare . . . ”

9 **COST RECOVERY**

10 11. Section 125.3 provides, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licensee found to have committed a violation or violations  
12 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially-Related Crime)**

16 12. Respondent is subject to disciplinary action under section 490, and section  
17 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444,  
18 as a result of her conviction of a crime that is substantially related to the qualifications, functions,  
19 and duties of a registered nurse. The facts and circumstances are as follows:

20 a. On or about October 15, 2007, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
22 [driving while having a blood-alcohol content level of 0.08 percent or more], in the criminal  
23 proceeding entitled *The People of the State of California v. Miriam Marina Macias* (Super. Ct.  
24 Los Angeles County, 2007, Case No. 7WW05240). Respondent was sentenced to 13 days in  
25 jail, placed on three years probation, and ordered to complete a nine-month alcohol education  
26 program.

27 b. The underlying arrest occurred on or about August 7, 2007, when officers of the  
28 California Highway Patrol (CHP) responded to investigate a traffic accident in which Respondent

drove into a utility pole. Because Respondent displayed objective signs of intoxication, the CHP officers administered field sobriety tests and two Breathalyzer tests. Respondent failed the field sobriety tests and registered blood-alcohol content level results of 0.17 percent, and 0.16 percent, twice the legal limit.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Dangerous Use of Alcohol)**

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), and section 2762, subdivision (b), in that on or about August 7, 2007, Respondent consumed alcoholic beverages in a manner dangerous to herself and others. Complainant incorporates all the allegations contained in paragraph 12, subparagraphs (a) - (b), inclusive, as though set forth fully.

## **THIRD CAUSE FOR DISCIPLINE**

### **(Conviction Related to the Consumption of Alcoholic Beverages)**

14. Respondent is subject to disciplinary action under section 2761, subdivision (a), and section 2762, subdivision (c), in that on or about October 15, 2007, Respondent was convicted of a criminal offense involving the consumption of alcoholic beverages. Complainant incorporates all the allegations contained in paragraph 12, subparagraphs (a) - (b), as though set forth fully.

## **FOURTH CAUSE FOR DISCIPLINE**

### **(Unprofessional Conduct)**

15. Respondent is subject to disciplinary action under section 2761, subdivision (a), for unprofessional conduct, as follows:

16. On October 19, 2007, Respondent was employed as a registered nurse in the Emergency Room ("ER") at Citrus Valley Medical Center, Queen of the Valley Campus (Citrus Valley), in West Covina, California. During Respondent's shift in the Citrus Valley ER on October 19, 2007, at 0849 hours, paramedics brought in a patient with chest pain (the patient), a potentially life-threatening condition that requires rapid medical attention.

///

1           17.     At approximately 0855 hours, Respondent documented the patient's blood  
2 pressure as 63/45. Although the patient's blood pressure was outside normal parameters and  
3 Citrus Valley procedures require that a physician be notified in such cases, Respondent failed to  
4 notify the ER physician of her findings.

5           18.     Although Citrus Valley policy requires that a patient with blood pressure  
6 outside of normal parameters have his vital signs monitored and blood pressure retaken every 15  
7 minutes, Respondent did not retake the patient's blood pressure for more than 30 minutes.

8           19.     When the ER physician saw the patient, she exclaimed that his condition  
9 was critical, and began emergency treatment immediately. The patient had a cardiopulmonary  
10 arrest and died.

11           20.     On this same day [on or about October 19, 2007], a registered nurse who  
12 was working with Respondent heard the noise of clinking glass as Respondent was putting items  
13 into her locker. When the co-worker looked over, she saw Respondent putting several small  
14 bottles of wine into her locker, and proceeded to notify administration.

15           21.     The Citrus Valley hospital administrator confronted Respondent about the  
16 reported bottles of alcohol and asked Respondent to open her locker. While speaking with  
17 Respondent, the administrator smelled alcohol on Respondent's breath. The administrator Six  
18 small bottles of wine were discovered in Respondent's locker.

19           22.     During the time the administrator was with Respondent at her locker,  
20 Respondent was jittery and fidgety, and could not maintain eye contact. The Citrus Valley  
21 administrator smelled alcohol on Respondent's breath.

22           23.     The Citrus Valley administrator asked Respondent to submit to a voluntary  
23 alcohol screen. Respondent refused, immediately resigned, and walked out of the hospital.

24           24.     In reference to recent shifts on and before October 19, 2007, colleagues of  
25 Respondent reported that she would disappear without notice for up to an hour and forty-five  
26 minutes during the middle of a shift.

27           25.     In reference to recent shifts on and before October 19, 2007, colleagues of  
28 Respondent reported concerns about Respondent's recent on-duty behavior and patient care,

1 including her failure to remember patient care events that had happened earlier in the shift and an  
2 apparent lack of basic nursing skills.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 26. Respondent is subject to disciplinary action under section 2761, subdivision  
6 (a)(1), in conjunction with California Code of Regulations, title 16, section 1442, for  
7 unprofessional conduct in the form of gross negligence, in that Respondent's on-duty behavior at  
8 Citrus Valley on or about October 9, 2007, in that Respondent's failure to report out-of-normal-  
9 range blood pressure to the attending physician constituted an extreme departure from the  
10 standard of care which, under similar circumstances, would have ordinarily been exercised by a  
11 competent registered nurse. Complainant refers to and incorporates all the allegations contained in  
12 paragraph 15 through 25, as though set forth fully.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Dangerous Use of Alcohol)**

15 27. Respondent is subject to disciplinary action under section 2761, subdivision  
16 (a), and section 2762, subdivision (b), as a result of Respondent's dangerous use of alcohol while  
17 on duty as a registered Nurse at Citrus Valley on or about October 19, 2007. Complainant refers  
18 to and incorporates all the allegations contained in paragraphs 15 through 25, inclusive, as though  
19 set forth fully.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 PRAYER

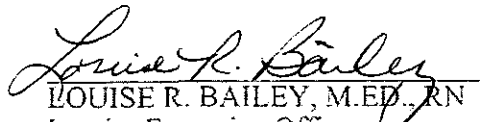
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 523480, issued  
5 to Respondent;

6 2. Ordering Respondent to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to section 125.3; and

8 3. Taking such other and further action as deemed necessary and proper.  
9

10 DATED: 10/22/04

11   
12 LOUISE R. BAILEY, M.Ed., RN  
13 Interim Executive Officer  
14 Board of Registered Nursing  
15 Department of Consumer Affairs  
16 State of California

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Complainant